

Notice of Allowability

Application No.

09/964,666

Examiner

Sean R. McGarry

Applicant(s)

DE LA MONTE ET AL.

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 7/20/05.
2. ☒ The allowed claim(s) is/are 19-23,31,32 and 35-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

SEAN MCGARRY
PRIMARY EXAMINER

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: Applicant arguments set forth in the response filed 7/20/05 in combination with the following disclosure from the specification, page 25, defines over the prior art and makes the instant invention non-obvious over applicant earlier and cited art.

“As discussed above, the invention also relates to the correct amino acid and nucleotide sequence for NTP. Thus, the invention also relates to antisense oligonucleotides which are complementary to the mRNA which may be transcribed from seq. ID No. 1, wherein said oligonucleotides correspond to regions of the NTP gene that were incorrectly sequenced in W094/23756 and W096/1 5272, e.g. in the region including nucleotides 150-1139 (nucleotides 1-148 of Fig. 16R of published application; nucleotides 1 -149 of Seq. ID No.1: of the present application: were correctly sequenced). This incorrect sequence is present in Seq. ID No. 3 and 4. Thus, the invention relates to an antisense oligonucleotide which is complementary to an NTP mRNA sequence corresponding to nucleotides 150-1139 of seq. ID No. 1. Preferably, the oligonucleotides correspond to regions including nucleotides selected from the group consisting of nucleotides 150, 194-195, 240-241, 243, 244, 255-256, 266-267, 269-271, 276, 267, 279-280, 293-295, 338-340, 411, 459, 532-533, 591, 633-644, 795-797, 828, 853-854, 876-877, 883, 884-885, 898, 976, 979-980, 999, 1037, 1043-1044, 1092-1096, 1099. and 1116-1119 of seq. ID No. 1.”

The prior art and applicants earlier work do not provide any teachings to target the specified regions recited in claims 35 were the oligonucleotides taught in the instant specification would further differ since the sequence at or surrounding the specified nucleotides is different than that of any earlier disclosed sequences of an NTP gene.

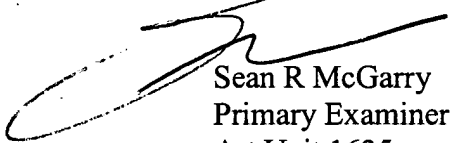
It is noted that the instant application file contains several references that were submitted upon the filing of the instant application. There is not for 1449 ir IDS of record that corresponds to these references. In the event that such papers are not of record due to a separation from the application file in its transition from a paper file to an IFW file, applicant should forward such papers, with evidence of their original filing, to the office so that the examiner may make them of record in the application. All references of record in the IFW file have been considered.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean R. McGarry whose telephone number is (571) 272-0761. The examiner can normally be reached on M-Th (6:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sean R McGarry
Primary Examiner
Art Unit 1635